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Part III

Department of Agriculture

Agricultural Marketing Service, Commodity Credit Corporation

Burley Tobacco; Experimental Sales and Proposed Price Support

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 29]

U.S. Type 31—Burley Tobacco; Experimental Sales of Burley Tobacco in Untied Form

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: It is proposed that the Official Standard Grades for Burley Tobacco, U.S. Type 31, adopted for the 1978–79 season be in effect, with modifications, during the 1979–80 season. Burley tobacco is grown primarily in Kentucky, Tennessee, Ohio, Indiana, Virginia, North Carolian, West Virginia and Missouri. Prior to the 1978–79 season, burley tobacco was eligible for all official grades only when marketed tied in hands. For educational and research purposes, the Department proposes that burley tobacco also be eligible for all official grades when marketed untied in bales in limited quantities on all sales days during the 1979–80 season.

DATES: Comments due on or before August 10, 1979.

ADDRESSES: Send comments in duplicate to the Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Leonard J. Ford, Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. (202) 447–7235).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department is considering a modification of the Official Standard Grades for Burley Tobacco, U.S. Type 31, pursuant to the authority contained in The Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.).

During the 1974–75 and 1975–76 burley marketing seasons, the Department cooperated with the University of Kentucky which was conducting experimental sales of untied baled burley tobacco. In these experiments, federal tobacco graders applied unofficial grades to the tobacco. This unofficial grading involved a determination by the federal graders as to the official grade a particular lot of tobacco would have warranted if the lot had been properly prepared for market and displayed as part of a regularly scheduled auction. In the 1976–77 season, experimental sales were conducted, using both baled tobacco and tobacco packed loose on burlap sheets, by the Universities of Kentucky and Tennessee and various State Farm Bureaus. Again, only unofficial grades were applied by government graders. Experimental sales were discontinued during the 1977–78 season and the Council for Burley Tobacco appointed a committee to further study the entire project. Subsequent to this study, the Council made recommendations to the Secretary of Agriculture for the conducting of further experimental sales of baled burley tobacco in the 1978–79 marketing year.

Based on numerous requests from the burley industry and, particularly, on the recommendations of the Council, the Department amended its regulations for the 1978–79 season, solely for experimental purposes, to provide that on certain days during the season federal graders apply official grades to limited quantities of untied burley tobacco packed straight in bales and offered for sale at auction centers throughout the entire burley production area.

Following the completion of the 1978–79 marketing season, the Department collected pertinent project data on relevant aspects of the experiment. Much data was supplied by the Universities of Kentucky and Tennessee. At the request of the Agricultural Marketing Service, a study was made and a report was compiled by the Economics, Statistics, and Cooperatives Service which analyzed, interpreted, and summarized all available data on the experiment. Copies of this report may be obtained from: Information Division, Agricultural Marketing Service, Room 3639–S, U.S. Deprtment of Agriculture, Washington, D.C. 20250. Briefly, the report concludes:

10.6 million pounds of burley was sold in bales—1.6 percent of total sales.

Baled tobacco prices averaged one cent per pound lower than tied prices.

Price differentials for baled tobacco varied by grade of tobacco—lug and leaf differentials were lowest and tips and nondescript highest.

Grade distribution of tied and baled tobacco were similar.

Some growers can realize cost savings of seven cents per pound by marketing their tobacco untied.

The report was reviewed by officials of the Agricultural Marketing Service, Agricultural Stabilization and Conservation Service, and Economics, Statistics, and Cooperatives Service. Based on their findings, in the interest of the burley tobacco industry, the Department proposes to extend the experiment, with modifications, into the 1979–80 marketing season.

Prior to the 1978–79 season, the definition of "rework," Section 29.3050, of the regulations provided that tobacco not tied in hands be graded NOG (no grade), a non-price supported designation applied to tobacco classified as nested, off-type, rework, semicured, damaged 20 percent or more, abnormally dirty, containing foreign matter, and/or having an odor foreign to the type.

Based on the Department's evaluation of the 1978–79 experiment, it is proposed that the definition of "rework" in § 29.3050 be amended for the 1979–80 marketing season only, to allow burley tobacco, untied in bales, to qualify for any of the official standard grades for which it meets the specifications, providing that the leaves in said bale are not tied in hands, are packed straight and that the bales are approximately 1×2×3 feet in size. Further, it is proposed that such baled burley tobacco be officially graded at any warehouse on all sales days during the 1979–80 season, in lieu of the 5 sales days in effect during the 1978–79 season.

The proposal by the Department is conditioned by the following:

1. That it is the responsibility of the operator of a warehouse to open the particular bale in a lot of tobacco chosen by a grader for inspection and to reseal that bale after inspection; and

2. That the producer is responsibile for certifying that the bale inspected by a grader is representative of the grade of all the tobacco in that lot, that the leaf was stalk-cured, that the bales do not contain any foreign matter or material, and that the bales are not nested.

The Department's instructions to graders would be amended to conform to these understandings.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal may file the same in duplicate with the Hearing Clerk, USDA, Room 1077 South Building, Washington, D.C. 20250, not later than August 10, 1979.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Section 29.3050 of the regulations is proposed to be amended as follows:

§ 29.3050 Rework.

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market in the manner which is customary in the type area, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type because the lot contains a substantial of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not tied in hands, not packed straight, not properly tied, or otherwise not properly prepared for market: *Provided,* That during the burley marketing season which will begin in November or December 1979 and end by April 1980, burley tobacco which is offered for sale in bales shall not be considered to require rework if the tobacco in said bales is not tied in hands, is packed straight, and the size of the bale is approximately 1×2×3 feet. *Provided* further, That: (1) tobacco marketed untied in bales will be officially graded on all sales days at any warehouse during the 1979–80 marketing season; (2) the operator of any warehouse at which baled burley tobacco is offered for sale shall open the particular bale, in a lot of tobacco, chosen by a grader for inspection and reseal that bale after inspection; and (3) the producer, by offering untied, baled burley tobacco for sale, certifies that the bale inspected by a grader is representative of the grade of all the tobacco in that lot, that the leaf was stalk-cured, that the bales do not contain any foreign matter or material, and are not nested.

Dated: July 6, 1979.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

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Commodity Credit Corporation

[7 CFR Part 1464]

Tobacco Loan Program; Proposed Price Support for Baled Burley Tobacco

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation is considering extending into the 1979 crop year price support availability on limited quantities of untied burley tobacco. This continuation of price support availability is being proposed in furtherance of a study which is being conducted to determine whether marketing burley tobacco untied in bales would reduce market preparation costs. Interested parties are invited to submit written views and recommendations on this proposal.

DATES: Comments must be received by August 10, 1979.

ADDRESS: Send comments to the Director, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas A. VonGarlem, (202) 447-7954.

SUPPLEMENTARY INFORMATION: Burley tobacco has traditionally been marketed tied in hands of about 20 leaves. Before 1978, burley tobacco was required to be marketed tied in hands as a condition for price support. Because the present marketing system is structured to handle tobacco prepared in this manner, changes in marketing and processing procedures and techniques may be necessary to accommodate the handling of tobacco in a different manner. The process of tying the tobacco in hands is time consuming and, therefore, costly to producers.

Since 1973, an industry group has been conducting an experiment to determine whether marketing untied burley tobacco would reduce market preparation costs. During the 1978 crop year the experiment was expanded by permitting a small percentage of the total crop to be eligible for price support. This allowed the Department of Agriculture in conjunction with the land grant universities in Kentucky and Tennessee to also research the experiment.

A report containing the results of this research has been published. However, its findings are inconclusive. Only 1.6 percent (10.6 million pounds) of the 1978 crop of burley tobacco was marketed in bales. Because the sample is so small, no statistical inferences can be made with an acceptable degree of accuracy. Also, the data gathered may not be meaningful as the relationships of costs may change if all facets of the industry were to prepare to handle baled burley on a larger scale.

Accordingly, it is proposed that the experiment continue into the 1979 crop of burley tobacco. The major objectives of the proposed amendments to the price support regulations are as follows: (1) A quantity of tobacco sufficient to allow evaluation of the effects on the various marketing and processing procedures could be marketed in bales with price support within the traditional marketing system; (2) all burley tobacco producers who desire to do so could participate equitably in the marketing of the limited quantity of tobacco that could be marketed in bales with price support; (3) the time of marketing in bales with price support would be spaced throughout the marketing season so as to afford maximum opportunity for warehousemen and buyers to make any necessary modification to their usual procedures and thus minimize any disruption to the marketing of burley tobacco tied in hands in the traditional manner; (4) because it is inherently difficult, if not impossible, to ascertain the quality and condition of all the tobacco in a bale or bales at the time of purchase or consignment for price support at the warehouse, proper certification as to certain characteristics of the bales would be a condition of price support eligibility for producers whose baled tobacco is consigned for price support.

Proposed Rule

Under the Tobacco Loan Program published in this part, Commodity Credit Corporation proposes to make price support available on untied 1979 crop burley tobacco packed in bales as set forth herein. Accordingly, it is proposed that 7 CFR Part 1464 be revised by amending subsections 1464.2(e)(5) and 1464.7(a)(5) to read as follows:

§ 1464.2 Availability of price support.

* * * * *

(e) * * *

(5) For 1979 crop burley tobacco, eligible producers may obtain price support on tied and untied burley tobacco packed in bales and offered for auction sale, subject to the following conditions:

(i) Applications for price support on baled tobacco: From September 4 through September 28, 1979, a producer who desires to market part of his/her burley tobacco in bales may request price support on such tobacco by filing an application with the local County ASC Committee. At the time of filing the application for price support on baled tobacco, the producer shall certify that all bales delivered for price support will meet the following specifications and conditions:

(A) The quality and condition of the tobacco contained in each bale offered for marketing as a single lot will be representative of the quality and condition of the tobacco contained in all other bales of the same lot.

(B) The tobacco in each bale will be stalk-cured.

(C) The bales will not contain foreign matter or material.

(D) The bales will not be nested, and

(E) Any and all procedures and certifications which are normally required by law or regulation pertaining to burley production and marketing will be met and the applicable eligibility requirements for price support will also be met.

(ii) Limitation on quantity of tobacco which may be marketed in bales with price support: The maximum quantity of burley tobacco produced on a farm which a producer may market in bales with price support shall be 110 percent of the quantity approved for the farm by the County ASC Committee. A producer may make application for price support on any quantity of tobacco not in excess of the effective farm poundage quota. Approval of the quantity for price support shall be determined as follows:

(A) If the effective farm poundage quota is 1,500 pounds or less, the entire amount of tobacco specified in the application shall be approved.

(B) If the effective farm poundage quota is more than 1,500 pounds, the amount approved shall be the larger of 1,500 pounds or 25 percent of the effective farm poundage quota but not to exceed the quantity requested.

(C) Notwithstanding paragraph (e)(5)(ii)(B) of this section, if the total quantity approved in paragraphs (e)(5)(ii) (A) and (B) of this section for all farms in a State is less than 25 percent of the total effective farm poundage quota for all farms in the State, the amount approved for each farm in paragraph (e)(5)(ii)(B) of this section shall be increased by the lesser of the difference between the amount requested and the amount approved or an amount determined by subtracting the sum of the amounts approved in paragraph (e)(5)(ii) (A) and (B) from the total quantity requested on all applications, dividing the results into the amount determined by subtracting the amounts approved in paragraphs (e)(5)(ii) (A) and (B) of this section from 25 percent of the total effective farm poundage quota for all farms in the State to obtain a four place factor and multiplying the factor by the difference between the quantity requested and the amount approved for the farm in paragraph (e)(5)(ii)(B) of this section.

(iii) Price support will be available on baled tobacco at auction sales during the same period and during the normal course of business that price support is offered on burley tobacco tied in hands in the traditional manner.

(iv) Identification cards for tobacco approved for marketing in bales with price support: A Baled Burley Tobacco Identification card showing 110 percent of the pounds of baled tobacco approved for marketing with price support shall be issued for each farm for which approval is given. The identification card together with the 1979 burley tobacco marketing card shall be used to identify any baled tobacco for which price support is desired. Separate sale bills marked "Baled Burley" shall be prepared by the warehouse to identify sales of baled burley tobacco. In addition the warehouse shall mark "No Price Support" on the basket ticket and on a sale bill for any baled tobacco not identified by an identification card. A separate basket ticket and sale bill marked "No Price Support" shall be prepared for that quantity of baled tobacco weighed in that is in excess of the balance of the pounds shown on the identification card.

(v) Specification of bales:

(A) Bales accepted for price support must be approximately 1 x 2 x 3 feet in size.

(B) The leaves in bales accepted for price support must be untied and oriented.

(vi) Grade loan rates for tobacco delivered for price support: The grade loan rates for baled burley tobacco will be the same as the grade loan rates to be established for 1979-crop burley tobacco tied in hands in the traditional manner.

* * * * *

§ 1464.7 Eligible producers.

(a) * * *

(5) The producer has complied with any certification he/she may have executed with respect to any baled 1979 crop burley tobacco delivered for price support.

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Prior to making any determinations, the Department will give consideration to comments, views and recommendations submitted in writing to the Director, Price Support and Loan Division.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741—South Building, USDA, 14th and Independence Avenue S.W., Washington, D.C. 20013.

Executive Order 12044 (43 FR 12661, March 24, 1978) and Secretary's Memorandum No. 1955 require at least a 60-day public comment period on any proposed regulation except where the Agency determines this is not possible. Because burley tobacco producers need to know as soon as possible whether price support will be available on a limited amount of 1979-crop burley tobacco so they can make plans on how they wish to market their tobacco, it is hereby found and determined that compliance within the 60-day comment period required by Executive Order 12044 is impossible. Accordingly, comments must be received by August 10, 1979 in order to be assured of consideration.

Note.—A Draft Impact Analysis is available from Thomas A. VonGarlem, Price Support and Loan Division, Room 3741—South Building, P.O. Box 2415, Washington, D.C. 20250.

Note.—This regulation has been determined not significant under the USDA criteria implementing Executive Order 12044.

Signed at Washington, D.C. on July 6, 1979.

Jim Williams,

Acting Secretary of Agriculture.

[FR Doc. 79-21343 Filed 7-10-79; 8:45 am]

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